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## GENERAL COUNSEL'S OPINION NUMBER 56-6, DATED 2 JULY 1956

An employee may not be reimbursed for the cost of shipping a privately owned automobile to a foreign port, even though he holds legal title to the automobile, when the purchase of the automobile is financed by another person with the intent of making a profit upon re-sale.

TO THE DIRECTOR OF PERSONNEL

1. The Chief, Administrative Staff, Office of Communications, has requested this Office to resolve a question of the validity

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question arose as to whether this car and several others may not have been financed for profit by another Agency employee at the station. For this reason the station refused to honor Mr. A's claim for reimbursement of shipping costs. After returning to headquarters, A. again submitted the claim and it was denied on the grounds that there was inadequate proof of payment for the car and inadequate proof of ownership. Mr. A., who has since resigned from the Agency, has again submitted a claim, this time including a letter from the Ford Motor Company acknowledging receipt of payment for the car and setting forth the charges for freight, insurance and consul fees.

2. An investigation of the circumstances surrounding the purchase and import of Mr. A's car and several others was conducted by the Security Officer [REDACTED]. The report of this investigation contains convincing evidence that the vehicles concerned were financed by another station member with an understanding that the profits or at least a share of the profits upon resale would accrue to that station member. Mr. A. has claimed that the advance to him was a loan which would be repaid with interest upon resale of the car and that there was no agreement that any of the profits upon resale would accrue to the person supplying the purchase money. During the investigation of the purchase and import of these cars Mr. A. made a written statement admitting that the person who financed the purchase ordered the automobile for him in his (A's) name. The dealer through whom the cars were ordered confirmed this and in addition stated that the person ordering the car for A. had written a personal check in payment for it.

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3. It is the opinion of this Office that Mr. A. held only bare legal title to the automobile in question and that he was in fact a trustee for the person who financed its purchase. If there had been a loan as Mr. A. has claimed the trust situation would not have arisen and Mr. A. would have held both legal and beneficial title to the automobile. However the preponderance of the evidence in the investigative report indicates that the purchase money was advanced with an understanding that some or all of the profits upon resale would accrue to the person advancing the funds. There is little evidence aside from the self-serving statements of A. and the person financing the purchase that this was in fact a loan. There is insufficient evidence to rebut that in the investigative report giving rise to a presumption that there was an arrangement for purchase and resale for profit.

4. Under these circumstances, and in the absence of sufficient evidence of clear title in Mr. A., it is the opinion of this Office that he may not be reimbursed for shipment of the car to the foreign duty station.

5. It is suggested that in replying to Mr. A's letter of May 20, requesting reimbursement you state that inasmuch as the facts developed in the investigation indicate that he held the car as trustee for the benefit of the person who financed its purchase and had only bare legal title, he did not have ownership within the meaning of the law and regulations permitting reimbursement for the shipment of privately owned automobiles and that therefore the claim must be denied.

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LAWRENCE R. HOUSTON  
General Counsel

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